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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/685,166

10/14/2003

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P1352US01

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116 7590 04/01/2009

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EXAMINER

EKPO, NNENNA NGOZI

ART UNIT

PAPER NUMBER

2425

MAIL DATE

DELIVERY MODE

04/01/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/685,166 | <b>Applicant(s)</b><br>NICKUM, LARRY A. |  |
|                              | <b>Examiner</b><br>Nnenna N. Ekpo    | <b>Art Unit</b><br>2425                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-55 and 57-88 is/are pending in the application.
- 4a) Of the above claim(s) 1-20 and 56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-55, 57-88 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Acknowledgement***

1. This Office Action is responsive to the arguments filed on December 08, 2008.

### ***Response to Arguments***

2. Applicant's arguments filed 12/08/2008 have been fully considered but they are not persuasive.
3. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, with the knowledge generally available to one of ordinary skill in the art, it would have been obvious to combine Killian and Ismail et al.'s invention with the limitations as taught by Knudson et al. for the advantage of ensuring the user desires to have the program recorded and to prevent the needless recording of the program if the user is not interested.
4. Applicant argues that the system of Killian (U.S. Patent No. 6,163,316) is a system for scheduling and recording a program without requiring the intervention of the user (see col. 17, lines 36-56). In contrast, Knudson et al. (U.S. Patent No. 6,141,488)

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is a system in which the user of the system selects and schedules the recording of a program (see col. 7, lines 4-19).

It is noted that the features upon which applicant relies (i.e. recording a program without requiring the intervention of the user (automatically) and user of the system selecting and scheduling the recording of a program (manually) are not recited in the rejected claim. Applicant is also reminded:

### III. AUTOMATING A MANUAL ACTIVITY

In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) (Appellant argued that claims to a permanent mold casting apparatus for molding trunk pistons were allowable over the prior art because the claimed invention combined “old permanent-mold structures together with a timer and solenoid which automatically actuates the known pressure valve system to release the inner core after a predetermined time has elapsed.” The court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art.).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. **Claims 21, 22, 25-28, 30, 32-37, 43, 44, 49-52, 82 and 83** are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian (6, 163,316) in view of Ismail (6,614,987), Knudson et al. (6,141,488), Yuen et al. (6,091,884) and Fuchigami (6,393,463).

Regarding **claim 21, 43 and 82** are Killian discloses a method for implementing a preferred viewing library of programs (see cited portion, but not limited to abstract, col. 2, lines 6-40), comprising:

searching electronic program guide data for a program satisfying a criterion (see cited portion, but not limited to abstract, col. 2, lines 6-40, col. 10, lines 61-66);

determining whether a program in the program guide satisfies the criterion (see cited portion, but not limited to col. 2, lines 6-40, col. 11, lines 50-col. 12, line 7);

in the event a program in the program guide satisfies the criterion, scheduling to record the program at a predetermined time (see cited portion, but not limited to col. 2, lines 13-24, col. 17, lines 7-47);

in the event a program in the program guide satisfies the criterion (see cited portion, but not limited to col. 17, lines 44-47, since program is recorded based on start time, recording is started when the predetermined start time is the same as the present time);

in the event a program in the program guide satisfies the criterion, scheduling to record the program at a predetermined time (see cited portion, but not limited to col. 17, lines 43-col. 18, line 2).

However, Killian fails to specifically disclose monitoring the viewing activity of a user; saving the viewing activity of the user in a database; monitoring the time and then determining whether the present time is the predetermined time; and organizing the recorded program in a program library such that a user may select the program from the program library and view the recorded program at an appropriate time.

Ismail et al. discloses monitoring the viewing activity of a user (see cited portion, but not limited to col. 1, lines 54-57);

saving the viewing activity of the user in a database (see cited portion, but not limited to abstract, lines 8-13).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian's invention with the above mentioned limitation as taught by Ismail et al. for the advantage of automatically providing a user with programming which is most desired based on the user's actual viewing activity.

However, Killian and Ismail et al. fail to specifically disclose monitoring the time and then determining whether the present time is the predetermined time, notifying the user that the program is to be recorded and confirming whether the program should be recorded and organizing the recorded program in a program library such that a user may select the program from the program library and view the recorded program at an appropriate time.

Knudson et al. discloses notifying the user that the program is to be recorded and confirming whether the program should be recorded (see cited portion, but not limited to col. 2, lines 58-col. 3, line 5).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian and Ismail et al.'s invention with the above mentioned limitation as taught by Knudson et al. for the advantage of ensuring the user desires to have the program recorded and to prevent the needless recording of the program if the user is not interested.

However, Killian, Ismail et al. and Knudson et al. fails to specifically disclose monitoring the time and then determining whether the present time is the predetermined time and organizing the recorded program in a program library such that a user may select the program from the program library and view the recorded program at an appropriate time.

Yuen et al. discloses organizing the recorded program in a program library such that a user may select the program from the program library and view the recorded program at an appropriate time (see cited portion, but not limited to col. 3, lines 58-col. 4, lines 5, col. 4, lines 1-5, lines 63-65, col. 5, lines 56-67).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail et al. and Knudson et al.'s invention with the above mentioned limitation as taught by Yuen et al. for the advantage of helping the user select the program from the program library and view the recorded program at an appropriate time to provide a user with various operations and features which would eliminate much of the frustration felt by the VCR users.

However, Killian, Ismail et al., Knudson et al. and Yuen et al. fails to specifically disclose monitoring the time and then determining whether the present time is the predetermined time.

Fuchigami discloses monitoring the time and then determining whether the present time is the predetermined time (see cited portion, but not limited to col. 24, lines 13-27).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail et al., Knudson et al. and Yuen et al.'s invention with the above mentioned limitation as taught by Fuchigami for the advantage of recording the program at the appropriate time.

Regarding **claims 22, 44 and 83**, Killian, Ismail et al., Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claims 21 and 43*). Killian discloses a method further comprising the steps of:

receiving a user selection criterion (see col. 9, lines 10-42, col. 10, lines 18-39);  
saving the user selection criterion in the database (col. 9, lines 10-67); and  
executing said searching step and said determining step based upon the user selection criterion stored in the database (see col. 7, lines 49-58, col. 10, lines 61-66, col. 11, lines 50-66).

Regarding **claims 25 and 52**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claims 21 and 43*).



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Ismail discloses a method wherein the program is recorded on a hard disk drive (see cited portion, but not limited to col. 9, lines 31-34).

Regarding **claim 26**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (see *claim 21*). Yuen et al. discloses a method wherein the program is recorded on a floppy disk drive (see col. 44, lines 33-41).

Regarding **claim 27**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (see *claim 21*). Yuen et al. discloses a method wherein the program is recorded on a writable optical media drive (see col. 70, lines 24-35).

Regarding **claim 28**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (see *claim 21*). Yuen et al. discloses a method wherein the program is recorded by a recording device having memory controller (see cited portion, but not limited to col. 143, lines 10-14).

Regarding **claim 30**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (see *claim 28*). Ismail discloses a method wherein the program is recorded on a videocassette (see col. 1, lines 13-15, col. 9, lines 38-42).

Regarding **claim 32**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claim 28*). Yuen et al. discloses a method wherein the program is recorded on a floppy disk drive (see col. 44, lines 33-41).

Regarding **claim 33**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claim 28*). Ismail discloses a method wherein the program is recorded on a hard disk drive (see cited portion, but not limited to col. 9, lines 31-34).

Regarding **claim 34**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claim 28*). Ismail discloses a method wherein the program is recorded in a semiconductor memory (see 9, lines 28-31). Yuen et al. discloses a method wherein the program is recorded in a semiconductor memory (see col. 18, lines 64-col. 19, lines 7).

Regarding **claim 35**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claim 28*). Killian discloses a method wherein in the event no program is identified; searching electronic program guide data periodically (see col. 8, lines 5-35).

Regarding **claim 36**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claim 28*). Killian discloses a method in the event no program is identified; searching electronic program guide data upon receiving an update of electronic program guide data (see col. 8, lines 5-56).

Regarding **claim 37**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claim 21*). Killian discloses in the event there are two or more users, selecting one of the two or more users (see col. 9, lines 5-42).

Ismail discloses monitoring the viewing activity of the selected user (see col. 1, lines 54-57).

Regarding **claim 49**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claim 43*). Knudson et al. discloses confirming whether the program should be recorded (see cited portion, but not limited to col. 2, lines 58-col. 3, line 5).

Yuen et al. discloses organizing the recorded program in a program library such that a user may select the program from the program library and view the recorded program at an appropriate time (see cited portion, but not limited to col. 3, lines 58-col. 4, lines 5, col. 4, lines 1-5, lines 63-65, col. 5, lines 56-67).

Regarding **claim 50**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claim 43*). Killian discloses a program of instructions wherein the program of instructions is stored in a main memory of an information handling system (see abstract, lines 12-15, col. 3, lines 6-18).

Regarding **claim 51**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claim 43*). Killian discloses a program of instructions is stored in a computer readable information storage medium (see col. 3, lines 6-18).

7. **Claims 23, 24, 38, 45, 48, 84 and 85** are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian (6, 163,316), Ismail (6,614,987), Knudson et al. (6,141,488), Yuen et al. (6,091,884) and Fuchigami (6,393,463) as applied to *claims 21, 37, 43 and 82* above, and further in view of Herz et al. (5,758,257).

Regarding **claims 23, 45, and 84**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claims 21, 43 and 82*). Killian discloses a method further comprising the steps of:

in the event there are two or more users, selecting one of the two or more users (see col. 9, lines 5-42),

saving the user selection criterion in a database (see col. 9, lines 10-25), and

executing said searching step and determining step based upon the user selection criterion in the database (see col. 7, lines 49-58, col. 10, lines 61-66, col. 11, lines 50-66).

Ismail discloses monitoring the viewing activity of the selected user (see col. 1, lines 54-57).

However, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami fails to specifically disclose selecting one of the two users based on identifying information of the selected user, wherein the identifying information includes at least one of a password and biometrics.

Herz et al. discloses selecting one of the two users based on identifying information of the selected user, wherein the identifying information includes at least one of a password and biometrics (see col. 49, lines 45-50).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami's invention with the above mentioned limitation as taught by Herz et al. for the advantage of providing quick and easy identification of a user from a plurality of users.

Regarding **claims 24, 48 and 85**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claims 21, 43 and 82*). Killian discloses a method further comprising the steps of:

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in the event there are two or more users, selecting one of the two or more users (see col. 9, lines 5-42),

receiving a user selection criterion (see col. 9, lines 10-42, col. 10, lines 18-39) saving the user selection criterion in a database (see col. 9, lines 10-25), and executing said searching step and determining step based upon the user selection criterion in the database (see col. 7, lines 49-58, col. 10, lines 61-66, col. 11, lines 50-66).

However, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami fails to specifically disclose selecting one of the two users based on identifying information of the selected user, wherein the identifying information includes at least one of a password and biometrics.

Herz et al. discloses selecting one of the two users based on identifying information of the selected user, wherein the identifying information includes at least one of a password and biometrics (see col. 49, lines 45-50).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami's invention with the above mentioned limitation as taught by Herz et al. for the advantage of providing quick and easy identification of a user from a plurality of users.

Regarding **claim 38**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claim 37*). However, Killian, Ismail,

Knudson et al., Yuen et al. and Fuchigami fails to specifically disclose wherein the user identifying information includes a password.

Herz et al. discloses wherein the identifying information includes at least one of a password and biometrics (see col. 49, lines 45-50).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami's invention with the above mentioned limitation as taught by Herz et al. for the advantage of providing quick and easy identification of a user from a plurality of users.

8. **Claims 40-42** are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian (6, 163,316), Ismail (6,614,987), Knudson et al. (6,141,488), Yuen et al. (6,091,884) and Fuchigami (6,393,463) as applied to *claims 37 and 40* above, and further in view of Vogel (5,253,066).

Regarding **claim 40**, Killian, Ismail, Knudson et al. Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claim 37*). Killian discloses recording (see col. 1, lines 7-10).

However, Killian, Ismail, Knudson et al. Yuen et al. and Fuchigami fails to specifically disclose the method further comprising alerting the selected user, prior to viewing.

Vogel discloses the method further comprising alerting the selected user, prior to viewing (see col. 4, lines 63-65).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail, Knudson et al. Yuen et al. and Fuchigami's invention as taught by Vogel for the advantage of informing the viewer beforehand.

Regarding **claim 41**, Killian, Ismail, Knudson et al. Yuen et al., Fuchigami and Vogel discloses everything claimed as applied above (*see claim 40*). Vogel discloses the method wherein the selected user is alerted by an alarm (see col. 4, lines 63-col. 5, lines 7).

Regarding **claim 42**, Killian, Ismail, Knudson et al. Yuen et al., Fuchigami and Vogel discloses everything claimed as applied above (*see claim 40*). Vogel discloses the method wherein the selected user is alerted by a remote contact by coupling via the worldwide network (see col. 3, lines 45-52).

9. **Claims 39, 46 and 47** are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian (6, 163,316), Ismail (6,614,987), Knudson et al. (6,141,488), Yuen et al. (6,091,884) and Fuchigami (6,393,463) as applied to *claims 37 and 43* above, and further in view of Scarampi (4,931,865).

Regarding **claim 46**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claim 43*).

Killian discloses a method further comprising the steps of:



in the event there are two or more users, selecting one of the two or more users (see col. 9, lines 5-42),

saving the user selection criterion in a database (see col. 9, lines 10-25), and executing said searching step and determining step based upon the user selection criterion in the database (see col. 7, lines 49-58, col. 10, lines 61-66, col. 11, lines 50-66).

Ismail discloses monitoring the viewing activity of the selected user (see col. 1, lines 54-57).

However, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami fails to specifically disclose selecting one of the two users based on identifying information of the selected user, wherein the identifying information includes biometrics.

Scarampi discloses identifying information includes biometrics (see col. 4, lines 66-col 5, lines 23).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami's invention with the above mentioned limitation as taught by Scarampi for the advantage of convenience and high precision.

Regarding **claim 47**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (see *claim 43*). Killian discloses a method further comprising the steps of:

in the event there are two or more users, selecting one of the two or more users (see col. 9, lines 5-42),

receiving a user selection criterion (see col. 9, lines 10-42, col. 10, lines 18-39) saving the user selection criterion in a database (see col. 9, lines 10-25), and executing said searching step and determining step based upon the user selection criterion in the database (see col. 7, lines 49-58, col. 10, lines 61-66, col. 11, lines 50-66).

However, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami fails to specifically disclose selecting one of the two users based on identifying information of the selected user, wherein the identifying information includes biometrics.

Scarampi discloses identifying information includes biometrics (see col. 4, lines 66-col 5, lines 23).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami's invention with the above mentioned limitation as taught by Scarampi for the advantage of convenience and high precision.

Regarding **claim 39**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claim 37*). However, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami fails to specifically disclose wherein the user identifying information includes biometrics.

Scarampi discloses identifying information includes biometrics (see col. 4, lines 66-col 5, lines 23).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami's invention with the above mentioned limitation as taught by Scarampi for the advantage of convenience and high precision.

10. **Claims 29, 31, 53-55 and 57** are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian (6, 163,316), Ismail (6,614,987), Knudson et al. (6,141,488), Yuen et al. (6,091,884) and Fuchigami (6,393,463) as applied to *claim 28* above, and further in view of Terakado et al. (6,311,329).

Regarding **claim 29**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (see claim 28).

However, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami fails to specifically disclose a method wherein the program is recorded on a recordable digital versatile disk (DVD).

Terakado et al. discloses a method wherein the program is recorded on a recordable digital versatile disk (DVD) (see col. 7, lines 36-45).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami's invention with the above mentioned limitation as taught by Terakado et al. for the advantage of having increased storage capacity and enhanced interactivity.

Regarding **claim 31**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (see claim 28). However, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami fails to specifically disclose a method wherein the program is recorded on a recordable CD-ROM.

Terakado et al. discloses a method wherein the program is recorded on a recordable CD-ROM (see col. 7, lines 36-45).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami's invention with the above mentioned limitation as taught by Terakado et al. for the advantage of having increased storage capacity and enhanced interactivity.

Regarding **claim 53**, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami discloses everything claimed as applied above (*see claim 43*). However, Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami fails to specifically disclose a method wherein the computer readable information storage medium is a removable memory.

Terakado et al. discloses a method wherein the computer readable information storage medium is a removable memory (see col. 7, lines 36-45).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail, Knudson et al., Yuen et al. and Fuchigami's invention with the above mentioned limitation as taught by Terakado et al. for the advantage of having increased storage capacity and enhanced interactivity.

Regarding **claim 54**, Killian, Ismail, Knudson et al., Yuen et al., Fuchigami and Terakado et al. discloses everything claimed as applied above (*see claim 53*).

Terakado et al. discloses a program of instructions wherein the removable memory is CD-ROM drive (see col. 7, lines 36-45).

Regarding **claim 55**, Killian, Ismail, Knudson et al., Yuen et al., Fuchigami and Terakado et al. discloses everything claimed as applied above (*see claim 53*). Yuen et al. discloses a program of instructions wherein the removable memory is a floppy disk for utilization in a floppy disk drive (see col. 44, lines 33-41).

Regarding **claim 57**, Killian, Ismail, Knudson et al., Yuen et al., Fuchigami and Terakado et al. discloses everything claimed as applied above (*see claim 53*).

Terakado et al. discloses a program of instructions wherein the removable memory is a personal computer memory card for utilization in a personal computer card slot (see col. 7, lines 36-45).

11. **Claims 58, 59, 61-66, 76-78, 80, 81 and 86-88** are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian (6, 163,316) in view of Ismail (6,614,987), Knudson et al. (6,141,488) and Fuchigami (6,393,463).

Regarding **claims 58, 77 and 86**, Killian discloses an information handling system for providing preferred viewing of one or more selected programs (see cited portion, but not limited to abstract, col. 2, lines 6-40), comprising:

a processor for executing a program of instructions on an information handling system (see cited portion, but not limited to col. 8, lines 36-49);

a memory (see fig 1 (48)), coupled to said processor (see fig 1 (8)), for storing the program of instructions (see cited portion, but not limited to fig 1, col. 3, lines 45-58);

an electronic program guide executed as the program of instruction by said processor (see cited portion, but not limited to col. 3, lines 7-col. 4, lines 13);

a recording device (see fig 1 (20)) coupled to the information handling system and controllable by said electronic program guide (see cited portion, but not limited to col. 4, lines 7-54); and

an information storage medium, readable by the information handling system, onto which one or more viewable programs may be stored in a library of viewable programs on said information storage medium by said electronic program guide wherein said program guide is adapted for (see cited portion, but not limited to abstract, lines 1-8, col. 2, lines 1-13):

searching electronic program guide data for a program satisfying a criterion (see cited portion, but not limited to abstract, col. 2, lines 6-40, col. 10, lines 61-66);

determining whether a program in the program guide satisfies the criterion (see cited portion, but not limited to col. 2, lines 6-40, col. 11, lines 50-col. 12, line 7);

in the event a program in the program guide satisfies the criterion, scheduling to record the program at a predetermined time (see cited portion, but not limited to col. 2, lines 13-24, col. 17, lines 7-47),

in the event a program in the program guide satisfies the criterion, scheduling to record the program at a predetermined time (see cited portion, but not limited to col. 17, lines 43-col. 18, line 2).

However, Killian fails to specifically disclose monitoring the viewing activity of a user; saving the viewing activity of the user in a database; monitoring the time and then determining whether the present time is the predetermined time.

Ismail et al. discloses monitoring the viewing activity of a user (see cited portion, but not limited to col. 1, lines 54-57);

saving the viewing activity of the user in a database (see cited portion, but not limited to abstract, lines 8-13).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian's invention with the above mentioned limitation as taught by Ismail et al. for the advantage of automatically providing a user with programming which is most desired based on the user's actual viewing activity.

However, Killian and Ismail et al. fail to specifically disclose monitoring the time and then determining whether the present time is the predetermined time, notifying the user that the program is to be recorded and confirming whether the program should be recorded.

Knudson et al. discloses notifying the user that the program is to be recorded and confirming whether the program should be recorded (see cited portion, but not limited to col. 2, lines 58-col. 3, line 5).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian and Ismail et al.'s invention with the above mentioned limitation as taught by Knudson et al. for the advantage of ensuring the user desires to have the program recorded and to prevent the needless recording of the program if the user is not interested.

However, Killian, Ismail et al. and Knudson et al. fails to specifically disclose monitoring the time and then determining whether the present time is the predetermined time.

Fuchigami discloses monitoring the time and then determining whether the present time is the predetermined time (see cited portion, but not limited to col. 24, lines 13-27).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail et al. and Knudson et al.'s invention with the above mentioned limitation as taught by Fuchigami for the advantage of recording the program at the appropriate time.

Regarding **claim 59**, Killian, Ismail, Knudson et al. and Fuchigami discloses everything claimed as applied above (see *claim 58*). Killian discloses in the event it is



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confirmed that the program should be recorded, recording the program (see cited portion, but not limited to col. 17, lines 43-col. 18, line 2).

Regarding **claim 63**, Killian, Ismail, Knudson et al. and Fuchigami discloses everything claimed as applied above (see *claim 58*). Killian discloses an information handling system wherein the memory for storing the program of instructions is the main memory of an information handling system (see abstract, lines 12-15, col. 3, lines 6-18).

Regarding **claim 64**, Killian, Ismail, Knudson et al. and Fuchigami discloses everything claimed as applied above (see *claim 58*). Killian discloses an information handling system wherein the memory for storing the program of instructions is a computer readable information storage medium (see abstract, lines 12-15, col. 3, lines 6-18)

Regarding **claim 76**, Killian, Ismail, Knudson et al. and Fuchigami discloses everything claimed as applied above (see *claim 59*). Ismail discloses a method wherein the program is recorded on a hard disk drive (see cited portion, but not limited to col. 9, lines 31-34).

Regarding **claims 65 and 66**, Killian, Ismail, Knudson et al. and Fuchigami discloses everything claimed as applied above (see *claim 58*). Ismail discloses an

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information handling system wherein the computer readable information storage medium is a hard disk drive (see cited portion, but not limited to col. 9, lines 31-34).

Regarding **claim 78**, Killian, Ismail, Knudson et al. and Fuchigami discloses everything claimed as applied above (see *claim 77*). Killian discloses in the event it is confirmed that the program should be recorded, recording the program (see cited portion, but not limited to col. 17, lines 43-col. 18, line 2).

Regarding **claims 61, 80 and 87**, Killian, Ismail, Knudson et al. and Fuchigami discloses everything claimed as applied above (see *claims 58, 77 and 86*). Killian discloses an information handling system further comprising a means for organizing data stored on said storing means wherein said implementing means searches the program guide data based upon a user profile stored in said organizing means (see col. 8, lines 36-col. 9, lines 25).

Regarding **claims 62, 81 and 88**, Killian, Ismail, Knudson et al. and Fuchigami discloses everything claimed as applied above (see *claims 58, 77 and 86*). Killian discloses an information handling system further comprising a means for organizing data stored on said storing means wherein said implementing means searches the program guide data based upon a user selection criterion stored in said organizing means (see col. 9, lines 26-col. 10, lines 17).

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12. **Claims 60, 67-69, 73-75 and 79** are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian (6, 163,316), Ismail (6,614,987), Knudson et al. (6,141,488) and Fuchigami (6,393,463) as applied to *claim 58* above, and further in view of Yuen et al. (6,091,884).

Regarding **claim 60**, Killian, Ismail, Knudson et al. and Fuchigami discloses everything claimed as applied above (*see claim 59*). However, Killian, Ismail, Knudson et al. and Fuchigami fails to specifically disclose organizing the recorded program in a program library such that a user may select the program from the program library and view the recorded program at an appropriate time.

Yuen et al. discloses organizing the recorded program in a program library such that a user may select the program from the program library and view the recorded program at an appropriate time (see cited portion, but not limited to col. 3, lines 58-col. 4, lines 5, col. 4, lines 1-5, lines 63-65, col. 5, lines 56-67).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail et al., Knudson et al. and Fuchigami's invention with the above mentioned limitation as taught by Yuen et al. for the advantage of helping the user select the program from the program library and view the recorded program at an appropriate time to provide a user with various operations and features which would eliminate much of the frustration felt by the VCR users.

Regarding **claim 67**, Killian, Ismail, Knudson et al. and Fuchigami discloses everything claimed as applied above (*see claim 58*). However, Killian, Ismail, Knudson

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et al. and Fuchigami fails to specifically disclose an information handling system wherein the program is recorded on a floppy disk drive.

Yuen et al. discloses an information handling system wherein the program is recorded on a floppy disk drive (see col. 44, lines 33-41).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail et al., Knudson et al. and Fuchigami's invention with the above mentioned limitation as taught by Yuen et al. for the advantage of being easy to carry and being widely used.

Regarding **claim 68**, Killian, Ismail, Knudson et al. and Fuchigami discloses everything claimed as applied above (see *claim 58*). However, Killian, Ismail, Knudson et al. and Fuchigami fails to specifically disclose an information handling system wherein the program is recorded on a writable optical media drive.

Yuen et al. discloses an information handling system wherein the program is recorded on a writable optical media drive (see col. 70, lines 24-35).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail et al., Knudson et al. and Fuchigami's invention with the above mentioned limitation as taught by Yuen et al. for the advantage of having lower cost.

Regarding **claim 69**, Killian, Ismail, Knudson et al. and Fuchigami discloses everything claimed as applied above (see *claim 58*). However, Killian, Ismail, Knudson

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et al. and Fuchigami fails to specifically disclose an information handling system wherein the program is recorded by a recording device having memory controller.

Yuen et al. discloses an information handling system wherein the program is recorded by a recording device having memory controller (see cited portion, but not limited to col. 143, lines 10-14).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail et al., Knudson et al. and Fuchigami's invention with the above mentioned limitation as taught by Yuen et al. for the advantage of having lower cost.

Regarding **claim 73**, Killian, Ismail, Knudson et al., Fuchigami and Yuen et al. discloses everything claimed as applied above (*see claim 69*). Yuen et al. discloses an information handling system wherein the program is recorded on a floppy disk drive (see col. 44, lines 33-41).

Regarding **claim 74**, Killian, Ismail, Knudson et al., Fuchigami and Yuen et al. discloses everything claimed as applied above (*see claim 69*). Ismail discloses an information handling system wherein the computer readable information storage medium is a hard disk drive (see cited portion, but not limited to col. 9, lines 31-34).

Regarding **claim 75**, Killian, Ismail, Knudson et al., Fuchigami and Yuen et al. discloses everything claimed as applied above (*see claim 69*). Ismail discloses a

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method wherein the program is recorded in a semiconductor memory (see 9, lines 28-31). Yuen et al. discloses a method wherein the program is recorded in a semiconductor memory (see col. 18, lines 64-col. 19, lines 7).

Regarding **claim 79**, Killian, Ismail, Knudson and Fuchigami discloses everything claimed as applied above (*see claim 78*). However, Killian, Ismail, Knudson and Fuchigami fails to specifically disclose organizing the recorded program in a program library such that a user may select the program from the program library and view the recorded program at an appropriate time.

Yuen et al. discloses organizing the recorded program in a program library such that a user may select the program from the program library and view the recorded program at an appropriate time (see cited portion, but not limited to col. 3, lines 58-col. 4, lines 5, col. 4, lines 1-5, lines 63-65, col. 5, lines 56-67).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail et al., Knudson et al. and Fuchigami's invention with the above mentioned limitation as taught by Yuen et al. for the advantage of helping the user select the program from the program library and view the recorded program at an appropriate time to provide a user with various operations and features which would eliminate much of the frustration felt by the VCR users.

13. **Claims 70-72** are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian (6, 163,316), Ismail (6,614,987), Knudson et al. (6,141,488), Fuchigami

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(6,393,463) and Yuen (6,091,884) as applied to *claim 69* above, and further in view of Terakado et al. (6,311,329).

Regarding **claim 70**, Killian, Ismail, Knudson et al., Fuchigami and Yuen et al. discloses everything claimed as applied above (*see claim 69*).

However, Killian, Ismail, Knudson et al., Fuchigami and Yuen et al. fails to specifically disclose a method wherein the program is recorded on a recordable digital versatile disk (DVD).

Terakado et al. discloses a method wherein the program is recorded on a recordable digital versatile disk (DVD) (see col. 7, lines 36-45).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail, Knudson et al., Fuchigami and Yuen et al.'s invention with the above mentioned limitation as taught by Terakado et al. for the advantage of having increased storage capacity and enhanced interactivity.

Regarding **claim 71**, Killian, Ismail, Knudson et al., Fuchigami, Yuen et al. and Terakado et al. discloses everything claimed as applied above (*see claim 69*). Ismail discloses a method wherein the program is recorded on a videocassette (see col. 1, lines 13-15, col. 9, lines 38-42).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail, Knudson et al., Fuchigami and Yuen et al.'s invention with the above mentioned limitation as taught by Terakado et al. for the advantage of having increased storage capacity and enhanced interactivity.

Regarding **claim 72**, Killian, Ismail, Knudson et al., Fuchigami, Yuen et al. and Terakado et al. discloses everything claimed as applied above (*see claim 69*).

Terakado et al. discloses an information handling system wherein the removable memory is CD-ROM drive (see col. 7, lines 36-45).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Killian, Ismail, Knudson et al., Fuchigami and Yuen et al.'s invention with the above mentioned limitation as taught by Terakado et al. for the advantage of having increased storage capacity and enhanced interactivity.

### ***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nnenna N. Ekpo whose telephone number is 571-270-



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1663. The examiner can normally be reached on Monday - Friday 7:30 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Patent Examiner  
March 19, 2009.

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